



December 11, 2019

**VIA ECF**

The Honorable Vince Chhabria  
United States District Court Judge  
San Francisco Courthouse  
Courtroom 4, 17th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

Re: *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*,  
No. 3:18-cv-02843-VC

Dear Judge Chhabria:

This letter responds to the Court's Pretrial Order No. 31, December 9, 2019, ECF No. 349.

Because merits and class-certification discovery are intertwined in this case, Plaintiffs would not oppose a decision to require the parties to complete fact and expert discovery (on both class certification and the merits) before the motion for class certification is filed, with the understanding that discovery may be reopened upon good cause after the class-certification ruling. Such case-management decisions are well within this Court's discretion. *See, e.g., Reiter v. Sonotone Corp.*, 442 U.S. 330, 345 (1979) (noting that "[d]istrict courts . . . have broad power and discretion . . . with respect to matters involving the certification and management" of proposed class actions). Allowing discovery on class certification and the merits to proceed at the same time will also prevent unnecessary disputes about what constitutes class-certification discovery as opposed to merits discovery.

If the Court decides to adopt this approach, we respectfully submit that the case schedule should be adjusted accordingly. Plaintiffs therefore submit, as an addendum to this letter, a modified case schedule that the Court may wish to consider. It shows modifications from the single-phase case schedule that Plaintiffs proposed in their supplemental briefing. *See* Pls.' Br. in Resp. to Pretrial Order No. 28, App. A, (Nov. 18, 2019), ECF No. 340. If the Court is inclined to adopt an aggressive fact and expert discovery schedule such as this one, it may also wish to consider a streamlined protocol for briefing discovery disputes. This might include a pre-filing call to the Court or setting deadlines for a joint letter or separate briefing when a dispute must be resolved quickly.

Sincerely,

A handwritten signature in blue ink that appears to read "Derek W. Loeser".

Derek W. Loeser  
[dloeser@kellerrohrback.com](mailto:dloeser@kellerrohrback.com)

A handwritten signature in blue ink that appears to read "Lesley E. Weaver".

Lesley E. Weaver  
[lweaver@bfalaw.com](mailto:lweaver@bfalaw.com)

**ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)**

I, Lesley E. Weaver, attest that concurrence in the filing of this document has been obtained from the other signatory. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11th day of December, 2019, at Oakland, California.

*/s/ Lesley E. Weaver*

Lesley E. Weaver

**CERTIFICATE OF SERVICE**

I, Lesley E. Weaver, hereby certify that on December 11, 2019, I electronically filed the foregoing with the Clerk of the United States District Court for the Northern District of California using the CM/ECF system, which shall send electronic notification to all counsel of record.

*/s/ Lesley E. Weaver*

Lesley E. Weaver

## ADDENDUM: REVISED PROPOSED SCHEDULE

Note: Deletions to the earlier proposed schedule are shown by strikethroughs; additions are shown by bold type.

<b>Date</b>	<b>Event</b>
December 10, 2019	Initial disclosures
December 11, 2020	Substantial completion of document production
February 2, 2021	Deadline for amending pleadings
<del>February 5, 2021</del>	<b>Motion for class certification</b>
<del>February 5, 2021</del>	<del>Disclosure of Plaintiffs' expert witnesses in support of motion for class certification and service of related expert reports</del>
<b>April 2, 2021</b>	<b>Close of fact and merits discovery</b>
<del>April 9, 2021</del>	<del>Opposition to motion for class certification</del>
<del>April 9, 2021</del>	<del>Disclosure of Defendants' expert witnesses in opposition to motion for class certification and service of related expert reports</del>
<b>May 3, 2021</b>	<b>Motion for class certification</b>
<b>May 3, 2021</b>	<b>Disclosure of Plaintiffs' expert witnesses (both for class certification and merits) and service of related expert reports</b>
<b>July 2, 2021</b>	<b>Opposition to motion for class certification</b>

Date	Event
<b>July 2, 2021</b>	<b>Disclosure of Defendants' expert witnesses (both for class certification and merits) and service of related expert reports</b>
<b>July 30, 2021</b>	<b>Disclosure of expert witnesses and service of related expert reports</b>
<b>August 6, 2021</b>	<b>Reply in support of motion for class certification</b>
<b>August 6, 2021</b>	<b>Disclosure of rebuttal expert witnesses (both for class certification and merits) and service of related expert reports</b>
<b>September 10, 2021</b>	<b>Close of expert discovery (including expert depositions)</b>
<b>September 10, 2021</b>	<b>Disclosure of rebuttal expert witnesses and service of related expert reports</b>
<b>October 21, 2021</b>	<b>Deadline for expert discovery (i.e., deadline for taking depositions of experts)</b>
<b>November 19, 2021</b>	<b>Deadline for non-dispositive motions (expert)</b>
<b>December 10, 2021</b>	<b>Deadline for dispositive motions</b>
<b>January 14, 2022</b>	<b>Oppositions to dispositive motions</b>
<b>February 4, 2022</b>	<b>Replies ISO dispositive motions</b>
<b>March 4, 2022</b>	<b>Settlement conference</b>
<b>April 30, 2022</b>	<b>Pretrial conference</b>

<b>Date</b>	<b>Event</b>
May 21, 2022	Trial